

REMARKS

In response to the above-identified Office Action, Applicant traverses the Examiner's rejection to the claims and seeks reconsideration thereof. Claims 1-129 are now pending in the present application. In this response, Claim 120 has been amended, no claims have been added and no claims have been cancelled.

I. Claim Amendments

Claim 120 has been amended to clarify that the rating feedback is communicated "periodically" to the server. The amendment to Claim 120 is referenced in Claim 121 as originally filed and therefore does not add new matter and is supported by the specification. In view of the foregoing, Applicant respectfully requests entry of the attached amendment to Claim 120.

II. Information Disclosure Statement

In the outstanding Office Action, the Examiner states the information disclosure statement filed 2/26/2002 fails to comply with 37 CFR 1.98(a)(2) for failing to provide copies of each non-patent publication listed. Applicant respectfully submits herewith a copy of the Information Disclosure Form PTO-1449 filed 2/26/2005 marked up by the Examiner and legible copies of the non-patent publications listed in the Form pursuant to the Examiner's request.

III. Claim Rejections – 35 U.S.C. §102(e)

In the outstanding Office Action, Claims 1, 2, 4-7, 9, 11-17, 19-30, 32-35, 61, 62, 64-74, 76-86, 88-106 and 108-129 are rejected under 35 U.S.C. §102(b) as being anticipated by U. S. Patent 6,317, 881 issued to Shah-Nazaroff et al ("Shah-Nazaroff "). Applicant respectfully traverses the rejections.

It is axiomatic that to anticipate a claim, every element of the claim must be disclosed within a single reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, the reference must disclose the identical invention in as complete detail as is found in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In regard to independent Claim 1, Applicant respectfully submits Shah-Nazaroff fails to teach at least the elements of “receiving broadcast communications including content descriptors via a first communications link from a broadcast source” and “transmitting the rating feedback via a second communications link to a remote location” as recited in Claim 1.

The Examiner alleges the “first communications link from a broadcast source” is taught in col. 6, lines 39-47 of Shah-Nazaroff and “transmitting the rating feedback via a second communications link to a remote location” is taught in col. 3, lines 56-62. See Action, page 3. Applicant has reviewed these portions of Shah-Nazaroff and fails to see where the separate elements of a “first communications link” and a “second communications link” are referenced. Instead, col. 5, lines 39-47 of Shah-Nazaroff teaches that the alleged content descriptors (questionnaires for particular programs) are downloaded from guide server 170 to system 100. As can be seen from Figure 1, communication between the guide server 170 and system 100 must be via communications medium 150. See Shah-Nazaroff, col. 5, lines 44-47. Similarly, col. 3, lines 56-58 of Shah-Nazaroff teaches system controller 110 provides feedback to programming guide server 170 over communications medium 150. Thus, Applicant is unable to discern where within these portions of Shah-Nazaroff cited by the Examiner it is taught that the alleged content descriptors and rating feedback are communicated along the separate first and second communications links as required by Claim 1. Moreover, this portion of Shah-Nazaroff teaches the alleged content descriptors are received via medium 150 from server 170 and transmitted via medium 150 back to server 170. Claim 1 requires “a first communication link from a broadcast source”

(emphasis added) and “a second communications link to a remote location” (emphasis added), not the same server 170 as taught by Shah-Nazaroff. Thus, for at least the foregoing reasons Shah-Nazaroff fails to teach all the limitations of Claim 1. Since each limitation of Claim 1 is not taught by the reference anticipation may not be found. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 1 under 35 U.S.C. §102.

In regard to dependent Claims 2, 4-7, 9, 11-17, 19-30, 32-35, these claims depend from Claim 1 and incorporate the limitations thereof. Thus, for at least the reason that Shah-Nazaroff fails to teach all the elements of Claim 1, Shah-Nazaroff fails to anticipate Claims 2, 4-7, 9, 11-17, 19-30, 32-35. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 1 under 35 U.S.C. §102.

In regard to independent Claim 61, similar to Claim 1, Claim 61 includes the elements of “receive broadcast communications including content descriptors via a first communications link from a broadcast source” and “transmit the rating feedback via a second communications link to a remote location.” The Examiner again cites to col. 6, lines 39-47 and col. 3, lines 56-62 of Shah-Nazaroff as teaching these elements. Thus, for at least the reasons discussed in regard to Claim 1, Shah-Nazaroff further fails to teach these elements of Claim 61 and anticipation may not be found. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 61 under 35 U.S.C. §102.

In regard to dependent Claims 62, 64-74 and 76-82, these claims depend from Claim 61 and incorporate the limitations thereof. Thus, for at least the reason that Shah-Nazaroff fails to teach all the elements of Claim 61, Shah-Nazaroff fails to anticipate Claims 62, 64-74 and 76-82. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 62, 64-74 and 76-82 under 35 U.S.C. §102.

In regard to Claim 94, Shah-Nazaroff fails to teach at least the elements of “at least one communications link to transmit broadcast communications including content

descriptors to a plurality of client systems” and “to transmit a rating feedback from each of the plurality of client systems to the server, wherein the rating feedback comprises a rating of at least a portion of the plurality of content pieces” as recited in Claim 94. The Examiner alleges col. 6, lines 39-47 and Fig. 1; col. 2, line 62-col. 3, lines 4 of Shah-Nazaroff teach at least one communications link to transmit broadcast communications including content descriptors to a plurality of client systems. See Action, page 16. The Examiner further alleges col. 3, lines 56-62 of Shah-Nazaroff teaches transmitting a rating feedback from each of the plurality of client systems to the server. Applicant respectfully disagrees with the Examiner’s characterization of these portions of Shah-Nazaroff.

In particular, col. 6, lines 39-47, Figure 1 and col. 2, line 62-col. 3, lines 4 of Shah-Nazaroff describe a single entertainment system 100 and system controller 110 for receiving or transmitting the questionnaires from guide server 170. Applicant is unable to discern and the Examiner has not pointed to where Shah-Nazaroff teaches a broadcast system including at least one communications link for transmitting broadcast communications to a plurality of client systems and to transmit a rating feedback from each of the plurality of client systems to the server as required by Claim 94. Thus, for at least the foregoing reasons, Shah-Nazaroff fails to teach at least these elements of Claim 94 and anticipation may not be found. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 94 under 35 U.S.C. §102.

In regard to dependent Claims 95-102, these claims depend from Claim 94 and incorporate the limitations thereof. Thus, for at least the reason that Shah-Nazaroff fails to teach all the elements of Claim 94, Shah-Nazaroff fails to anticipate Claims 95-102. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 94-102 under 35 U.S.C. §102.

In regard to Claim 103, similar to Claims 1 and 61, Claim 103 includes the elements of “a first communications link” and “a second communications link.” The Examiner again cites to col. 6, lines 39-47 and col. 3, lines 56-62 of Shah-Nazaroff as

teaching these elements. Thus, for at least the reasons discussed in regard to Claims 1 and 61, Shah-Nazaroff further fails to teach these elements of Claim 103 and anticipation may not be found. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 103 under 35 U.S.C. §102.

In regard to dependent Claims 104-106 and 108-111, these claims depend from Claim 103 and incorporate the limitations thereof. Thus, for at least the reason that Shah-Nazaroff fails to teach all the elements of Claim 103, Shah-Nazaroff fails to anticipate Claims 104-106 and 108-111. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 104-106 and 108-111 under 35 U.S.C. §102.

In regard to independent Claim 112, Shah-Nazaroff fails to teach at least the element of “the processor implements the rating algorithm to rate at least a portion of the plurality of content pieces to generate a rating feedback” as recited in Claim 112. The Examiner alleges the claimed processor is taught by the controller 110 of Shah-Nazaroff and further states col. 3, lines 22-32 of Shah-Nazaroff teaches generating the questionnaire for the user to rate the program and on this basis concludes Shah-Nazaroff teaches a processor implementing the rating algorithm to rate at least a portion of the plurality of content pieces to generate a rating feedback. Applicant respectfully submits the Examiner’s conclusion is simply incorrect at least for the reason that the explicit teachings of Shah-Nazaroff do not support the Examiner’s conclusion. Shah-Nazaroff does not expressly teach controller 110 generates the questionnaires or rating feedback as suggested by the Examiner. Instead, Shah-Nazaroff teaches controller 110 assists in controlling the distribution of the questionnaires. See Shah-Nazaroff, col. 2, lines 64-67; col. 3, lines 23-67. Shah-Nazaroff teaches it is the “programming guide server 170 [that] generates a rating of the broadcast based at least in part on viewer feedback 120.” See Shah-Nazaroff, col. 4, lines 20-23. Thus, for at least for the foregoing reasons, Shah-Nazaroff fails to teach at least the element of a processor of the client system that “implements the rating algorithm to rate at least a portion of the plurality of content pieces to generate a rating feedback” as required by

Claim 112. Since Shah-Nazaroff fails to teach all the elements of Claim 112, anticipation may not be found. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 112 under 35 U.S.C. §102.

In regard to dependent Claims 113-119, these claims depend from Claim 112 and incorporate the limitations thereof. Thus, for at least the reason that Shah-Nazaroff fails to teach all the elements of Claim 112, Shah-Nazaroff fails to anticipate Claims 113-119. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 113-119 under 35 U.S.C. §102.

In regard to independent Claim 120, Shah-Nazaroff fails to teach at least the element of “communicating the rating feedback to the server periodically” as recited in amended Claim 120. The Examiner suggests column 6, lines 48-59 of Shah-Nazaroff directed toward storing and transmitting several responses teaches periodically communicating a batch of rating feedback. See Action, page 23. Applicant respectfully submits, nowhere within this portion of Shah-Nazaroff cited by the Examiner is the frequency of the transmission indicated. Thus, this portion may not be relied upon to teach “communicating the rating feedback periodically” (emphasis added) as required by Claim 120. Accordingly, the Examiner has not set forth, and Applicant is unable to discern, a portion of Shah-Nazaroff teaching at least this element. For at least the foregoing reasons, Shah-Nazaroff fails to teach all the elements of Claim 120 therefore anticipation may not be found. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 120 under 35 U.S.C. §102.

In regard to dependent Claims 121-129, these claims depend from Claim 120 and incorporate the limitations thereof. Thus, for at least the reason that Shah-Nazaroff fails to teach all the elements of Claim 120, Shah-Nazaroff fails to anticipate Claims 121-129. Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 121-129 under 35 U.S.C. §102.

IV. Claim Rejections – 35 U.S.C. §103(a)

In the outstanding Office Action, Claims 3, 8, 10, 18, 31, 36-60, 63, 75, 87 and 107 are rejected under 35 U.S.C. §103(a) as being unpatentable over U. S. Patent 6,317, 881 issued to Shah-Nazaroff. Applicant respectfully traverses the rejection for at least the reason that Shah-Nazaroff is not a proper reference.

Applicant respectfully submits the instant application and Shah-Nazaroff were, at the time the invention of the instant application was made, commonly owned by Intel Corporation. Thus, since Shah-Nazaroff only qualifies as prior art under 35 U.S.C. §102(e), it is disqualified under 35 U.S.C. §103(c) as prior art in a rejection under 35 U.S.C. 103(a).

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 3, 8, 10, 18, 31, 36-60, 63, 75, 87 and 107 under 35 U.S.C. §103(a)

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely Claims 1-129, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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Dated: 11/16, 2005

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on November 16, 2005.

J. Sloboda 11/16/05
Jean Sloboda